

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED
2010 APR -1 P 3:12
RICHARD M. WILKINSON
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

CR 10 0245 JSW

KENNETH MARTIN KYLE and TESSA VAN VLERAH,

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 2241(c)- Aggravated Sexual Abuse; 18 U.S.C. § 2251(a)- Production of
Child Pornography; 18 U.S.C. § 2251(b)- Production of Child Pornography (by
Parent); 18 U.S.C. § 2252(a)(2)- Distribution of Child Pornography;
18 U.S.C. § 2252(a)(1)- Transportation of Child Pornography;
18 U.S.C. § 2252(a)(4)(B)- Possession of Child Pornography;
18 U.S.C. § 2253 - Criminal Forfeiture

A true bill.

Synda Benjamin
Foreman

Filed in open court this 1 day of

April, 2010
Ada Yiu
ADA YIU Clerk

Bernard Zimmerman
BAIL, \$ No Bail
BERNARD ZIMMERMAN

warrant - Vlerah
No process - Kyle

CR 10-0245 JSW

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. 2241(c) -- Aggravated Sexual Abuse of a Minor
 18 U.S.C. 2251(a) -- Production of Child Pornography
 18 U.S.C. 2252(a)(2) -- Distribution of Child Pornography
 18 U.S.C. 2252(a)(1) -- Transportation of Child Pornography
 18 U.S.C. 2252(a)(4)(B) -- Possession of Child Pornography

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See Attached.

E-filing

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

KENNETH MARTIN KYLE

DISTRICT COURT NUMBER

CR 10 0245 JSW
 DEFENDANT

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

ICE, Special Agent Analisa Nogales

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
DOCKET NO.

☒ this prosecution relates to a
 pending case involving this same
 defendant

MAGISTRATE
CASE NO.

☒ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

3:10-70212 MAG

Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

OWEN P. MARTIKAN

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.
 1) ☐ If not detained give date any prior
 summons was served on above charges

2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☒ On this charge5) ☐ On another conviction

☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer ☐ Yes
 been filed? ☐ No

If "Yes"
 give date
 filed

DATE OF
ARREST

Month/Day/Year
 March 20, 2010

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

* Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments: _____

PENALTY SHEET ATTACHMENT – DEFENDANT KENNETH MARTIN KYLE

MAXIMUM PENALTIES:

18 U.S.C. § 2241(c) – Aggravated Sexual Abuse With Children

At least 30 years but up to life imprisonment
\$250,000 fine
At least 5 years but up to lifetime supervised release
\$100 special assessment

18 U.S.C. § 2251(a) – Production of Child Pornography

At least 15 years but up to 30 years imprisonment
\$250,000 fine
At least 5 years but up to lifetime supervised release
\$100 special assessment

18 U.S.C. § 2252(a)(2) – Distribution of Child Pornography

At least 5 years but up to 20 years imprisonment
\$250,000 fine
At least 5 years but up to lifetime supervised release
\$100 special assessment

18 U.S.C. § 2252(a)(1) – Transportation of Child Pornography

At least 5 years but up to 20 years imprisonment
\$250,000 fine
At least 5 years but up to lifetime supervised release
\$100 special assessment

18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography

10 years imprisonment
\$250,000 fine
At least 5 years but up to lifetime supervised release
\$100 special assessment

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. 2251(a) -- Production of Child Pornography by Parent

- ☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: At least 15 years but up to 30 years imprisonment
 \$250,000 fine
 At least 5 years but up to lifetime supervised release
 \$100 special assessment

E-filing

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

▶ TESSA VAN VLERAH

DISTRICT COURT NUMBER

CR 10 0245**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☐ If not detained give date any prior summons was served on above charges ▶
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☒ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges
 If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST ▶

Month/Day/Year
 March 20, 2010

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ▶

Month/Day/Year

☐ This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

ICE, Special Agent Analisa Nogales

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
DOCKET NO.

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☒ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

3:10-70212 MAG

Name and Office of Person
 Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.
 Attorney (if assigned) OWEN P. MARTIKAN

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

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Date/Time: _____ Before Judge: _____

Comments: _____

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CR 10 0245

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH MARTIN KYLE and TESSA
VAN VLERAH,

Defendants.

No.

VIOLATIONS:

18 U.S.C. § 2241(c) – Aggravated Sexual Abuse; 18 U.S.C. § 2251(a) – Production of Child Pornography; 18 U.S.C. § 2251(b) – Production of Child Pornography (by Parent); 18 U.S.C. § 2252(a)(2) – Distribution of Child Pornography; 18 U.S.C. § 2252(a)(1) – Transportation of Child Pornography; 18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography; 18 U.S.C. § 2253 – Criminal Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

COUNT ONE: 18 U.S.C. § 2241(c) - Aggravated Sexual Abuse with Children

On or about August through October, 2009, in the Northern District of California, the defendant,

KENNETH MARTIN KYLE,

did knowingly cross a State line with the intent to engage in a sexual act with a person who has

INDICTMENT

not attained the age of 12 years, and knowingly engaged and attempted to engage in a sexual act with a person who has not attained the age of 12 years, to wit, contact between the mouth and the penis, in violation of Title 18, United States Code, Section 2241(c).

COUNT TWO: 18 U.S.C. § 2251(a) - Production of Child Pornography

On or about August through October, 2009, in the Northern District of California and elsewhere, the defendant,

KENNETH MARTIN KYLE,

did knowingly employ, use, persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and such visual depiction was transported or transmitted in or affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 2251(a).

COUNT THREE: 18 U.S.C. § 2251(a) - Production of Child Pornography (by Parent)

On or about August through October, 2009, in the Northern District of California and elsewhere, the defendant,

TESSA VAN VRELAH,

a parent, legal guardian, and person having custody and control of minor A.V., did knowingly permit A.V. to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and such visual depiction was transported or transmitted in or affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 2251(a).

COUNT FOUR: 18 U.S.C. § 2252(a)(2) - Distribution of Child Pornography

On or about December 7, 2009, in the Northern District of California, the defendant,

KENNETH MARTIN KYLE,

did knowingly distribute at least one visual depiction that had been mailed and shipped and transported in and affecting interstate and foreign commerce, and which contains materials which

1 had been so mailed and shipped and transported by any means, including by computer, the
 2 production of which involved the use of a minor engaging in sexually explicit conduct and which
 3 visual depiction was of such conduct, in violation of Title 18, United States Code, Section
 4 2252(a)(2).

5
 6 COUNT FIVE: 18 U.S.C. § 2252(a)(1) – Transportation of Child Pornography

7 On or about March 15, 2010, in the Northern District of California, the defendant,
 8 KENNETH MARTIN KYLE,
 9 did knowingly transport and ship in foreign commerce a visual depiction, the production of
 10 which involved the use of a minor engaging in sexually explicit conduct and which visual
 11 depiction was of such conduct; in violation of Title 18, United States Code, Section 2252(a)(1).

12
 13 COUNT SIX: 18 U.S.C. § 2252(a)(4)(B) - Possession of Child Pornography

14 On or about March 15, 2010, in the Northern District of California, the defendant,
 15 KENNETH MARTIN KYLE,
 16 did knowingly possess at least one matter which contained a visual depiction that had been
 17 mailed, shipped and transported in and affecting interstate and foreign commerce, and which was
 18 produced using materials which have been mailed, shipped and transported in interstate and
 19 foreign commerce, by any means including by computer, the production of such visual depiction
 20 having involved the use of a minor engaging in sexually explicit conduct, and such depiction was
 21 of such conduct; in violation of Title 18, United States Code, Section 2252(a)(4)(B).

22
 23 FORFEITURE ALLEGATIONS: (18 U.S.C. §§ 2253(a)(1) and (a)(3) - Criminal Forfeiture)

24 Upon conviction of the offense alleged herein, the defendants,
 25 KENNETH MARTIN KYLE, and
 26 TESSA VAN VLERAH,
 27 shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 2253(a)(1)
 28 and (a)(3), all visual depictions described in Title 18, United States Code Sections 2251 and

2252, and all property, real or personal, used or intended to be used to commit or promote the commission of the offenses of conviction, including but not limited to the following items that were obtained from defendants during March, 2010:

1. a Hewlett Packard G60 laptop computer bearing serial number 2CE940048Y;
2. an Acer Aspire 5000 laptop computer bearing serial number LXA5105653013094EM00;
3. a Western Digital external hard drive bearing serial number WCASU3254662;
4. a Dell Inspiron laptop computer bearing serial number ASGNLO1;
5. a Nokia 6103b cellular phone bearing serial number IMEI 352269/01/882842/1;
6. a Smart One Cable Modem bearing serial number CMX300U2;
7. a CD-ROM containing WinCleaner hard drive wiping software; and
8. thumb drives and CD-ROMs containing images and videos of child pornography.

DATED:

April 1, 2010

A TRUE BILL.

Lynda Benjamin
FOREPERSON

JOSEPH P. RUSSONIELLO
United States Attorney

Gregg W. Lowder
GREGG W. LOWDER
Chief, Major Crimes Section

(Approved as to form: *[Signature]*)

AUSA MARTIKAN